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## CHAMBER ACTION

1 The Business Regulation Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to contraband and counterfeit cigarettes;  
7 providing additional regulatory and enforcement measures;  
8 amending s. 210.01, F.S.; revising and providing  
9 definitions; amending s. 210.06, F.S.; revising  
10 requirements for and limitations on the affixation of  
11 stamps; providing requirements with respect to receipt,  
12 possession, storage, and transport of unstamped cigarette  
13 packages; creating s. 210.085, F.S.; requiring  
14 manufacturers, importers, distributing agents, dealers,  
15 and retail dealers to hold a current, valid permit to  
16 sell, distribute, or receive cigarettes; amending s.  
17 210.09, F.S.; providing notice and filing guidelines for  
18 certain persons shipping unstamped cigarette packages;  
19 authorizing certain law enforcement officials to inspect  
20 certain shipping vehicles; providing for application to  
21 and records requirements of manufacturers and importers;  
22 amending s. 210.12, F.S.; authorizing the state to claim  
23 certain property and materials from certain dealers and

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24       retailers who attempt to defraud the state; authorizing  
25       the destruction of certain cigarettes; amending s. 210.15,  
26       F.S.; providing criteria for permit application;  
27       prohibiting issuance, maintenance, or renewal of certain  
28       permits for certain applicants; providing guidelines for  
29       permit application denial; amending s. 210.16, F.S.;  
30       revising the authority of the Division of Alcoholic  
31       Beverages and Tobacco to revoke or suspend the permits of  
32       certain persons under certain circumstances; revising a  
33       penalty period for revoked permits; increasing a civil  
34       penalty; amending s. 210.18, F.S.; expanding the group of  
35       violators subject to criminal liability; prohibiting the  
36       sale or possession for sale of counterfeit cigarettes;  
37       providing penalties; creating s. 210.181, F.S.; providing  
38       civil penalties for failure to comply with certain duties  
39       or pay certain taxes; reenacting ss. 772.102(1)(a) and  
40       895.02(1)(a), F.S., relating to crimes constituting a  
41       "criminal activity" and definitions as used in the Florida  
42       RICO Act, to incorporate the amendment to s. 210.18, F.S.,  
43       in references thereto; providing an effective date.

44  
45   Be It Enacted by the Legislature of the State of Florida:

46  
47       Section 1. Subsections (6) and (7) of section 210.01,  
48       Florida Statutes, are amended, and subsections (19) through (22)  
49       are added to said section, to read:

50       210.01 Definitions.--When used in this part the following  
51       words shall have the meaning herein indicated:

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52           (6) "Wholesale dealer" means any person located inside or  
53 outside this state who sells cigarettes to retail dealers or  
54 other persons for purposes of resale only, ~~or any person who~~  
55 ~~operates more than one cigarette vending machine located in more~~  
56 ~~than one place of business.~~ Such term shall not include any  
57 cigarette manufacturer, export warehouse proprietor, or importer  
58 with a valid permit under 26 U.S.C. s. 5712 if such person sells  
59 or distributes cigarettes in this state only to dealers who are  
60 agents and who hold valid and current permits under s. 210.15 or  
61 to any cigarette manufacturer, export warehouse proprietor, or  
62 importer who holds a valid and current permit under 26 U.S.C. s.  
63 5712.

64           (7) "Retail dealer" means any person located inside or  
65 outside this state other than a wholesale dealer engaged in the  
66 business of selling cigarettes, including persons issued a  
67 permit pursuant to s. 569.003.

68           (19) "Stamp" or "stamps" means the indicia required to be  
69 placed on cigarette packages that evidence payment of the tax on  
70 cigarettes under s. 210.02.

71           (20) "Importer" means any person with a valid permit under  
72 26 U.S.C. s. 5712 who imports into the United States, directly  
73 or indirectly, a finished cigarette for sale or distribution.

74           (21) "Manufacturer" means any domestic person or entity  
75 with a valid permit under 26 U.S.C. s. 5712 that manufactures,  
76 fabricates, assembles, processes, or labels a finished  
77 cigarette.

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78        (22) "Counterfeit cigarettes" means cigarettes that have  
79        false manufacturing labels, tobacco product packs with  
80        counterfeit tax stamps, or any combination thereof.

81        Section 2. Subsection (1) of section 210.06, Florida  
82        Statutes, is amended, and subsection (5) is added to said  
83        section, to read:

84        210.06 Affixation of stamps; presumption.--

85        (1) Every dealer within ~~or without~~ the state shall affix  
86        or cause to be affixed to such package or container of such  
87        cigarettes such, stamps as are required under this section  
88        within 10 days after receipt of such products. Dealers outside  
89        this state shall affix such stamps before the shipment of  
90        cigarettes into this state, evidencing the payment of the tax  
91        ~~imposed by virtue of this part before such cigarettes are~~  
92        ~~offered for sale or use or consumed or before they are otherwise~~  
93        ~~disposed of in the state.~~

94        (a) A tax stamp shall be applied to all cigarette packages  
95        intended for sale or distribution to consumers subject to the  
96        tax imposed under s. 210.02, except as otherwise provided in  
97        this part.

98        (b) No stamp shall be applied to any cigarette package  
99        exempt from tax under 26 U.S.C. s. 5704 that is distributed by a  
100        manufacturer pursuant to federal regulations.

101        (c) Dealers may apply stamps only to cigarette packages  
102        received directly from a manufacturer or importer of cigarettes,  
103        or a distributing agent representing a manufacturer or importer  
104        of cigarettes, who possesses a valid and current permit under  
105        this part.

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(5) Except as provided in s. 210.04(9) or s. 210.09(1), no person, other than a dealer or distributing agent that receives unstamped cigarette packages directly from a cigarette manufacturer or importer in accordance with this section and s. 210.085, shall hold or possess an unstamped cigarette package. Dealers shall be permitted to set aside, without application of stamps, only such part of the dealer's stock that is identified for sale or distribution outside this state. If a dealer maintains stocks of unstamped cigarette packages, such unstamped packages shall be stored separately from stamped product packages. No unstamped cigarette packages shall be transferred by a dealer to another facility of the dealer within this state or to another person within this state.

Section 3. Section 210.085, Florida Statutes, is created to read:

210.085 Transactions only with permitted manufacturers, importers, distributing agents, dealers, and retail dealers.--Except as otherwise provided in s. 210.04(9), a manufacturer or importer, or a distributing agent representing a manufacturer or importer, may sell or distribute cigarettes to a person located or doing business within this state only if such person is a dealer or importer with a valid, current permit under s. 210.15. A distributing agent may accept cigarettes from a manufacturer or importer with a valid, current permit for transfer to a dealer with a valid, current permit but may not own or sell cigarettes. A dealer may sell or distribute cigarettes to a person located or doing business within this state only if such person is a dealer or retail dealer with a

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134 valid, current permit under s. 569.003. A dealer may obtain  
135 cigarettes only from a manufacturer or importer or from a  
136 distributing agent or dealer with a valid, current permit under  
137 s. 210.15. A retail dealer may obtain cigarettes only from a  
138 dealer with a valid, current permit under s. 210.15.

139 Section 4. Subsections (1), (2), and (3) and paragraph (a)  
140 of subsection (4) of section 210.09, Florida Statutes, are  
141 amended to read:

142 210.09 Records to be kept; reports to be made;  
143 examination.--

144 (1)(a) Every person who shall possess or transport any  
145 unstamped cigarettes upon the public highways, roads, or streets  
146 of the state, shall be required to have in his or her actual  
147 possession invoices or delivery tickets for such cigarettes. The  
148 absence of such invoices or delivery tickets shall be prima  
149 facie evidence that such person is a dealer in cigarettes in  
150 this state and subject to the provisions of this part.

151 (b) Any person who ships unstamped cigarette packages into  
152 this state other than to a manufacturer, an importer, or a  
153 distributing agent representing a manufacturer or an importer,  
154 or dealer holding a valid, current permit pursuant to s. 210.15  
155 shall first file with the division a notice of such shipment.  
156 This paragraph shall not apply to any common or contract carrier  
157 that is transporting cigarettes through this state to another  
158 location outside this state under a proper bill of lading or  
159 freight bill that states the quantity, source, and destination  
160 of such cigarettes or to cigarettes shipped or otherwise  
161 transported pursuant to s. 210.04(9).

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162        (c) In any case in which the division or its duly  
163        authorized agent, or any law enforcement officer of this state,  
164        has knowledge or reasonable grounds to believe that any vehicle  
165        is transporting cigarettes in violation of this part, the  
166        division, such agent, or such law enforcement officer is  
167        authorized to stop such vehicle and inspect the vehicle for  
168        contraband cigarettes.

169        (2) The division is authorized to prescribe and promulgate  
170        by rules and regulations, which shall have the force and effect  
171        of the law, such records to be kept and reports to be made to  
172        the division by any manufacturer, importer, distributing agent,  
173        wholesale dealer, retail dealer, common carrier, or any other  
174        person handling, transporting or possessing cigarettes for sale  
175        or distribution within the state as may be necessary to collect  
176        and properly distribute the taxes imposed by s. 210.02. All  
177        reports shall be made on or before the 10th day of the month  
178        following the month for which the report is made, unless the  
179        division by rule or regulation shall prescribe that reports be  
180        made more often.

181        (3) All manufacturers, importers, distributing agents,  
182        wholesale dealers, agents, or retail dealers shall maintain and  
183        keep for a period of 3 years at the place of business where any  
184        transaction takes place, such records of cigarettes received,  
185        sold, or delivered within the state as may be required by the  
186        division. The division or its duly authorized representative is  
187        hereby authorized to examine the books, papers, invoices, and  
188        other records, the stock of cigarettes in and upon any premises  
189        where the same are placed, stored, and sold, and the equipment

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190 of any such manufacturers, importers, distributing agents,  
191 wholesale dealers, agents, or retail dealers, pertaining to the  
192 sale and delivery of cigarettes taxable under this part. To  
193 verify the accuracy of the tax imposed and assessed by this  
194 part, each person is hereby directed and required to give to the  
195 division or its duly authorized representatives the means,  
196 facilities, and opportunity for such examinations as are herein  
197 provided for and required.

198       (4)(a) All persons who are either cigarette manufacturers,  
199 importers, wholesalers, ~~vending machine operators~~ or  
200 distributing agents, and agents and employees of the same, are  
201 required to keep daily sales tickets or invoices of cigarette  
202 sales and it shall be the duty of said persons to see that each  
203 sales ticket and invoice handled by them or on behalf of them  
204 show the correct name and address to whom sold and the number of  
205 packages or cartons of each brand sold. It shall also be the  
206 duty of said persons to see that each sales ticket or invoice  
207 correctly shows whether the same is inside or outside of a  
208 qualified municipality and if the sale is made within the limits  
209 of a qualified municipality, the correct name of the  
210 municipality must be indicated.

211       Section 5. Subsection (1) of section 210.12, Florida  
212 Statutes, is amended, subsections (2) through (6) of said  
213 section are renumbered as subsections (4) through (8),  
214 respectively, and new subsections (2) and (3) are added to said  
215 section, to read:

216       210.12 Seizures; forfeiture proceedings.--



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217           (1) The state, acting by and through the division, shall  
218 be authorized and empowered to seize, confiscate, and forfeit  
219 ~~for the use and benefit of the state,~~ any cigarettes upon which  
220 taxes payable hereunder may be unpaid or that are otherwise held  
221 in violation of the requirements of this chapter, and also any  
222 vending machine or receptacle in which ~~such~~ cigarettes upon  
223 which taxes have not been paid are held for sale, or any vending  
224 machine that does not have affixed thereto the identification  
225 sticker required by the provisions of s. 210.07, or which does  
226 not display at all times at least one package of each brand of  
227 cigarettes located therein so the same is clearly visible and  
228 arranged in such a manner that the cigarette tax stamp or meter  
229 impression of the stamp affixed thereto is clearly visible. Such  
230 seizure may be made by the division, its duly authorized  
231 representative, any sheriff or deputy sheriff, or any police  
232 officer.

233           (2) All fixtures, equipment, and other materials and  
234 personal property on the premises of any dealer, retail dealer,  
235 or distributing agent who, with intent to defraud the state,  
236 fails to keep or make any record, return, report, or inventory  
237 required by this part; keeps or makes any false or fraudulent  
238 record, return, report, or inventory required by this part;  
239 refuses to pay any tax imposed by this part; or attempts in any  
240 manner to evade or defeat the requirements of this part shall be  
241 forfeited to the state.

242           (3) All cigarettes seized, confiscated, and forfeited to  
243 the state under this part shall be destroyed.

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244 Section 6. Subsection (1) of section 210.15, Florida  
245 Statutes, is amended to read:

246 210.15 Permits.--

247 (1)(a) Every person, firm, or corporation desiring to  
248 engage in business as a manufacturer, importer, exporter,  
249 distributing agent, or wholesale dealer of cigarettes ~~deal in~~  
250 ~~cigarettes as a distributing agent, wholesale dealer, or~~  
251 ~~exporter~~ within this state shall file with the division an  
252 application for a cigarette permit for each place of business  
253 located within this state or, in the absence of such place of  
254 business in this state, for wherever its principal place of  
255 business is located ~~with the Division of Alcoholic Beverages and~~  
256 ~~Tobacco~~. Every application for a cigarette permit shall be made  
257 on forms furnished by the division and shall set forth the name  
258 under which the applicant transacts or intends to transact  
259 business, the location of the applicant's place of business  
260 within the state, if any, and such other information as the  
261 division may require. If the applicant has or intends to have  
262 more than one place of business dealing in cigarettes within  
263 this state, the application shall state the location of each  
264 place of business. If the applicant is an association, the  
265 application shall set forth the names and addresses of the  
266 persons constituting the association, and if a corporation, the  
267 names and addresses of the principal officers thereof and any  
268 other information prescribed by the division for the purpose of  
269 identification. The application shall be signed and verified by  
270 oath or affirmation by the owner, if a natural person, and in  
271 the case of an association or partnership, members or partners

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thereof, and in the case of a corporation, by an executive officer thereof or by any person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of this authority. ~~The cigarette permit for a distributing agent shall be issued annually for which an annual fee of \$5 shall be charged.~~

~~(b) The holder of any duly issued, annual permit for a distributing agent shall be entitled to a renewal of his or her annual permit from year to year as a matter of course, on or before July 1, upon making application to the division and upon payment of this annual permit fee.~~

(b)(c) Permits ~~The permit for a distributing agent, wholesale dealer, or exporter~~ shall be issued only to persons of good moral character, who are not less than 18 years of age. ~~Distributing agent, wholesale dealer, or exporter~~ Permits to corporations shall be issued only to corporations whose officers are of good moral character and not less than 18 years of age. There shall be no exemptions from the permit fees herein provided to any persons, association of persons, or corporation, any law to the contrary notwithstanding.

(c) No distributing agent, wholesale dealer, or exporter permit under this part or chapter 569 shall be issued, maintained, or renewed if the applicant, its officers, or any person or persons owning directly or indirectly, in the aggregate, more than 10 percent of the ownership interests in the applicant:

1. Has been finally adjudicated as owing \$500 or more in delinquent cigarette taxes;

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300        2. Had a permit revoked by the division within the  
301 previous 2 years;

302        3. Has been convicted of selling stolen or counterfeit  
303 cigarettes, receiving stolen cigarettes, or being involved in  
304 the counterfeiting of cigarettes;

305        4. ~~to any person who~~ Has been convicted within the past 5  
306 years of any offense against the cigarette laws of this state or  
307 ~~who has been~~ convicted in this state, any other state, or the  
308 United States during the past 5 years of any offense designated  
309 as a felony by such state or the United States, or to a  
310 corporation, any of whose officers have been so convicted. The  
311 term "convicted ~~conviction~~" shall include an adjudication of  
312 guilt on a plea of guilty or a plea of nolo contendere, or the  
313 forfeiture of a bond when charged with a crime;-

314        5. Has imported, or caused to be imported, into the United  
315 States any cigarette in violation of 19 U.S.C. s. 1681a; or

316        6. Has imported, or caused to be imported into the United  
317 States, or manufactured for sale or distribution in the United  
318 States, any cigarette that does not fully comply with the  
319 Federal Cigarette Labeling and Advertising Act (15 U.S.C. ss.  
320 1331 et seq.).

321        (d) The division may refuse to issue a ~~distributing agent,~~  
322 ~~wholesale, or exporter~~ permit to any person, firm, or  
323 corporation whose permit under the cigarette law has been  
324 revoked, ~~or~~ to any corporation, an officer of which has had his  
325 or her permit under the cigarette law revoked, or to any person  
326 who is or has been an officer of a corporation whose permit has  
327 been revoked under the cigarette law. Any permit issued to a

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328 firm or corporation prohibited from obtaining such permit under  
329 the cigarette law may be revoked by the division.

330 (e) Prior to an application for a distributing agent,  
331 wholesale dealer, or exporter permit being approved, the  
332 applicant shall file a set of fingerprints on forms provided by  
333 the division. The applicant shall also file a set of  
334 fingerprints for any person or persons interested directly or  
335 indirectly with the applicant in the business for which the  
336 permit is being sought, when so required by the division. If the  
337 applicant or any person interested with the applicant, either  
338 directly or indirectly, in the business for which the permit is  
339 sought shall be such a person as is within the definition of  
340 persons to whom a ~~distributing agent, wholesale dealer, or~~  
341 ~~exporter~~ permit shall be denied, then the application may be  
342 denied by the division. If the applicant is a partnership, all  
343 members of the partnership are required to file said  
344 fingerprints, or if a corporation, all principal officers of the  
345 corporation are required to file said fingerprints. The  
346 cigarette permit for a manufacturer, importer, distributing  
347 agent, wholesale dealer, or exporter shall be originally issued  
348 at a fee of \$100, which sum is to cover the cost of the  
349 investigation required before issuing such permit.

350 (f) The cigarette permits issued under this section ~~permit~~  
351 ~~for a wholesale dealer or exporter~~ shall be renewed from year to  
352 year ~~as a matter of course,~~ at an annual cost of \$100, on or  
353 before July 1, upon making application to the division and upon  
354 payment of the annual renewal fee.

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(g) Permittees, by acceptance of their permits, agree that their places of business or vehicles transporting cigarettes shall always be subject to be inspected and searched without a search warrant for the purpose of ascertaining that all provisions of this part are complied with by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or during any other time such premises are occupied by the permittee or other persons. Retail cigarette dealers and manufacturers' representatives, by dealing in cigarettes, agree that their places of business or vehicles transporting cigarettes shall always be subject to inspection and search without a search warrant for the purpose of ascertaining that all provisions of this part are complied with by authorized employees of the division and also by sheriffs, deputy sheriffs, and police officers during business hours or other times when the premises are occupied by the retail dealer or manufacturers' representatives or other persons.

(h) No retail sales of cigarettes may be made at a location for which a wholesale dealer, distributing agent, or exporter permit has been issued. The excise tax on sales made to any traveling location, such as an itinerant store or industrial caterer, shall be paid into the General Revenue Fund unallocated. Cigarettes may be purchased for retail purposes only from a person holding a wholesale dealer permit. The invoice for the purchase of cigarettes must show the place of business for which the purchase is made and the cigarettes

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cannot be transferred to any other place of business for the purpose of resale.

Section 7. Section 210.16, Florida Statutes, is amended to read:

210.16 Revocation or suspension of permit.--

(1) The Division of Alcoholic Beverages and Tobacco is given full power and authority to revoke the permit of any person ~~wholesale-dealer~~ receiving a permit to engage in business under this part or chapter 569 for violation of any of the provisions of this part or chapter 569.

(2) The division shall revoke the permit or permits of any person who would be ineligible to obtain a new license or renew a license by reason of any of the conditions for permitting provided in s. 210.15(1)(c)1.-6.

(3)~~(2)~~ The division may suspend for a reasonable period of time or revoke, in its discretion, the permits ~~of wholesale dealers~~ issued under the provisions of this part or chapter 569 to any person who has violated any other provision of this part or chapter 569 ~~for the same causes and under the same limitations as is authorized hereunder to revoke the permits of such wholesale dealers.~~

(4)~~(3)~~ No person ~~wholesale-dealer~~ whose permit for any place of business has been revoked shall engage in business under this part or chapter 569 at such place of business after such revocation until a new permit is issued. No person ~~wholesale-dealer~~ whose permit for any place of business has been revoked shall be permitted to have said permit renewed, or to obtain an additional cigarette permit for any other place of

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business, for a period of 2 years ~~6 months~~ after the date such revocation becomes final.

~~(5)(4)~~ In addition to ~~lieu of~~ the suspension or revocation of permits, the division may impose civil penalties against holders of permits for violations of this part or rules and regulations relating thereto. No civil penalty so imposed shall exceed \$2,500 ~~\$1,000~~ for each offense, and all amounts collected shall be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. If the holder of the permit fails to pay the civil penalty, his or her permit shall be suspended for such period of time as the division may specify.

Section 8. Subsections (2) and (3) of section 210.18, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

210.18 Penalties for tax evasion; reports by sheriffs.--

(2) Except as otherwise provided in this section, any person ~~wholesale or retail dealer~~ who fails, neglects, or refuses to comply with, or violates the provisions of, this part or the rules adopted ~~and regulations promulgated~~ by the division under this part commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person ~~wholesale or retail dealer~~ who has been convicted of a violation of any provision of the cigarette tax law and who is thereafter convicted of a further violation of the cigarette tax law commits ~~is~~, upon conviction of such further offense, ~~guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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437 (3) Any person who falsely or fraudulently makes, forges,  
438 alters, or counterfeits any stamp or impression die used in  
439 meter machines prescribed by the division under the provisions  
440 of this part; or, with intent to evade taxes, jams, tampers  
441 with, or alters such a machine; or causes or procures to be  
442 falsely or fraudulently made, forged, altered, or counterfeited  
443 any such stamp or die; or knowingly and willfully utters,  
444 purchases, passes or tenders as true any such false, altered, or  
445 counterfeited stamp or die impression; or, with the intent to  
446 defraud the state, fails to comply with any other requirement of  
447 this chapter commits ~~is guilty of~~ a felony of the third degree,  
448 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

449 (9) Notwithstanding any other provision of law, the sale  
450 or possession for sale of counterfeit cigarettes by any person  
451 or by a manufacturer, importer, distributing agent, wholesale  
452 dealer, or retail dealer shall result in the seizure of the  
453 product and related machinery by the division or any law  
454 enforcement agency and may be punishable as follows:

455 (a)1. A first violation with a total quantity of less than  
456 two cartons of cigarettes or the equivalent amount of other  
457 cigarettes, by a person who does not hold a permit or who holds  
458 a retail permit pursuant to this part and 10 cartons or the  
459 equivalent amount of other cigarettes by the holder of any other  
460 type of permit, may be punishable by a fine not to exceed \$1,000  
461 or five times the retail value of the cigarettes involved,  
462 whichever is greater, or imprisonment not to exceed 5 years, or  
463 both.

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464        2. A subsequent violation with a total quantity of less  
465 than two cartons of cigarettes or the equivalent amount of other  
466 cigarettes may be punishable by a fine not to exceed \$5,000 or  
467 five times the retail value of the cigarettes involved,  
468 whichever is greater, or imprisonment not to exceed 5 years, or  
469 both, and shall also result in the revocation by the division of  
470 the permit of the manufacturer, importer, distributing agent,  
471 wholesale dealer, or retail dealer.

472        (b)1. A first violation with a total quantity of two or  
473 more cartons of cigarettes or the equivalent amount of other  
474 cigarettes may be punishable by a fine not to exceed \$2,000 or  
475 five times the retail value of the cigarettes involved,  
476 whichever is greater, or imprisonment not to exceed 5 years, or  
477 both.

478        2. A subsequent violation with a quantity of two cartons  
479 of cigarettes or more or the equivalent amount of other  
480 cigarettes may be punishable by a fine not to exceed \$50,000 or  
481 five times the retail value of the cigarettes involved,  
482 whichever is greater, or imprisonment not to exceed 5 years, or  
483 both, and shall also result in the revocation by the division of  
484 the permit of the manufacturer, importer, distributing agent,  
485 wholesale dealer, or retail dealer.

486  
487 For purposes of this subsection, any counterfeit cigarettes  
488 seized by the division shall be destroyed.

489        Section 9. Section 210.181, Florida Statutes, is created  
490 to read:

491        210.181 Civil penalties.--

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492       (1) Except as provided in s. 210.16(5), whoever knowingly  
493 omits, neglects, or refuses to comply with any duty imposed upon  
494 him or her by this part, or to do or cause to be done any of the  
495 things required by this part, or does anything prohibited by  
496 this part shall, in addition to any other penalty provided in  
497 this part, be liable for a fine of \$1,000 or five times the  
498 retail value of the cigarettes involved, whichever is greater.

499       (2) Whoever fails to pay any tax imposed by this part at  
500 the time prescribed by law or rules shall, in addition to any  
501 other penalty provided in this part, be liable for a penalty of  
502 five times the unpaid tax due.

503       Section 10. For the purpose of incorporating the amendment  
504 to section 210.18, Florida Statutes, in a reference thereto,  
505 paragraph (a) of subsection (1) of section 772.102, Florida  
506 Statutes, is reenacted to read:

507       772.102 Definitions.--As used in this chapter, the term:

508       (1) "Criminal activity" means to commit, to attempt to  
509 commit, to conspire to commit, or to solicit, coerce, or  
510 intimidate another person to commit:

511       (a) Any crime which is chargeable by indictment or  
512 information under the following provisions:

513       1. Section 210.18, relating to evasion of payment of  
514 cigarette taxes.

515       2. Section 414.39, relating to public assistance fraud.

516       3. Section 440.105 or s. 440.106, relating to workers'  
517 compensation.

518       4. Part IV of chapter 501, relating to telemarketing.

519       5. Chapter 517, relating to securities transactions.

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520           6.   Section 550.235, s. 550.3551, or s. 550.3605, relating  
521 to dogracing and horseracing.

522           7.   Chapter 550, relating to jai alai frontons.

523           8.   Chapter 552, relating to the manufacture, distribution,  
524 and use of explosives.

525           9.   Chapter 562, relating to beverage law enforcement.

526           10.   Section 624.401, relating to transacting insurance  
527 without a certificate of authority, s. 624.437(4)(c)1., relating  
528 to operating an unauthorized multiple-employer welfare  
529 arrangement, or s. 626.902(1)(b), relating to representing or  
530 aiding an unauthorized insurer.

531           11.   Chapter 687, relating to interest and usurious  
532 practices.

533           12.   Section 721.08, s. 721.09, or s. 721.13, relating to  
534 real estate timeshare plans.

535           13.   Chapter 782, relating to homicide.

536           14.   Chapter 784, relating to assault and battery.

537           15.   Chapter 787, relating to kidnapping.

538           16.   Chapter 790, relating to weapons and firearms.

539           17.   Section 796.03, s. 796.04, s. 796.05, or s. 796.07,  
540 relating to prostitution.

541           18.   Chapter 806, relating to arson.

542           19.   Section 810.02(2)(c), relating to specified burglary  
543 of a dwelling or structure.

544           20.   Chapter 812, relating to theft, robbery, and related  
545 crimes.

546           21.   Chapter 815, relating to computer-related crimes.

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22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

Section 11. For the purpose of incorporating the amendment to section 210.18, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is reenacted to read:

895.02 Definitions.--As used in ss. 895.01-895.08, the term:

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(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 403.727(3)(b), relating to environmental control.

3. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

4. Section 414.39, relating to public assistance fraud.

5. Section 440.105 or s. 440.106, relating to workers' compensation.

6. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

7. Sections 499.0051, 499.0052, 499.00535, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.

8. Part IV of chapter 501, relating to telemarketing.

9. Chapter 517, relating to sale of securities and investor protection.

10. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.

11. Chapter 550, relating to jai alai frontons.

12. Chapter 552, relating to the manufacture, distribution, and use of explosives.

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13. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

14. Chapter 562, relating to beverage law enforcement.

15. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

16. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

17. Chapter 687, relating to interest and usurious practices.

18. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

19. Chapter 782, relating to homicide.

20. Chapter 784, relating to assault and battery.

21. Chapter 787, relating to kidnapping.

22. Chapter 790, relating to weapons and firearms.

23. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.

24. Chapter 806, relating to arson.

25. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.

26. Chapter 812, relating to theft, robbery, and related crimes.

27. Chapter 815, relating to computer-related crimes.

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28. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

29. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

30. Section 827.071, relating to commercial sexual exploitation of children.

31. Chapter 831, relating to forgery and counterfeiting.

32. Chapter 832, relating to issuance of worthless checks and drafts.

33. Section 836.05, relating to extortion.

34. Chapter 837, relating to perjury.

35. Chapter 838, relating to bribery and misuse of public office.

36. Chapter 843, relating to obstruction of justice.

37. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

38. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

39. Chapter 874, relating to criminal street gangs.

40. Chapter 893, relating to drug abuse prevention and control.

41. Chapter 896, relating to offenses related to financial transactions.

42. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

43. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.



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658 |       Section 12.   This act shall take effect October 1, 2005. |